



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-834]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise. The period of investigation (POI) is April 1, 2015, through March 31, 2016. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Blaine Wiltse, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4682 and (202) 482-6345, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination of sales at LTFV of CTL plate from Italy*.¹ A summary of the events that occurred since the

¹ See *Certain Carbon and Alloy Steel Cut-To-Length Plate From Italy: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 81 FR 79423 (November 14, 2016) (*Preliminary Determination*).

Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.²

Scope of the Investigation

The scope of the investigation covers CTL plate from Italy. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) in November 2016, we conducted verification of the sales and cost information submitted by Officine Tecnosider s.r.l. (OTS) for use in our final determination. We used standard

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Italy," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

verification procedures, including an examination of relevant accounting and production records, and original source documents provided by OTS.³

In addition, as provided in section 782(i) of the Act, in November 2016 and January 2017, we also attempted to verify the sales and cost information submitted by NLMK Verona SpA (NVR), using standard verification procedures. However, as explained in the Issues and Decision Memorandum, the Department was unable to validate the accuracy of NVR's reporting.⁴ As a consequence, we find that NVR's reported data are unverifiable, and, thus, cannot serve as a reliable basis for reaching a determination in this investigation. Specifically, because we encountered so many errors within NVR's reported data at verification, and the submitted sales and cost information is integral to the proper evaluation of its margin calculation, we find that all of the information submitted by NVR is unverifiable. For further discussion, *see* the Issues and Decision Memorandum at Comments 1-4.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for OTS. For a discussion of these changes, *see* the "Margin Calculations" section of the Issues and Decision Memorandum.

³ For discussion of our verification findings, *see* the following memoranda: Memorandum, "Verification of the Sales Response of Officine Tecnosider S.R.L. in the Antidumping Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy," dated January 17, 2017; and Memorandum, "Verification of the Cost Response of Officine Tecnosider S.r.l. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy," dated January 23, 2017.

⁴ For discussion of our verification findings, *see* the following memoranda: Memorandum, "Verification of the Sales Response of NLMK Verona SpA in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length (CTL) Plate from Italy," dated January 11, 2017; Memorandum, "Verification of the Sales Response of NLMK North America Plate in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length (CTL) Plate from Italy," dated January 25, 2017; and Memorandum, "Verification of the Cost Response of NLMK Verona SpA in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy," dated January 18, 2017.

Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination*, the Department found that critical circumstances exist with respect to imports of CTL plate from Marcegaglia, NVR, and OTS, and do not exist with respect to companies covered by the “all others” rate.⁵ We modified our critical circumstances findings for the final determination and now determine that critical circumstances exist for “all others.” For further discussion, *see* the Issues and Decision Memorandum at “Critical Circumstances.” Thus, pursuant to section 735(a)(3)(B) of the Act, and 19 CFR 351.206(h)(1)-(2), we find that critical circumstances exist with respect to subject merchandise produced or exported by Marcegaglia, NVR, OTS, and “all others.”

Adverse Facts Available

In the *Preliminary Determination*, because mandatory respondent Marcegaglia SpA (Marcegaglia) failed to respond to the Department’s questionnaire and informed the Department that it would not participate in this investigation,⁶ we applied adverse facts available (AFA) to these respondents, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. We were able to corroborate the petition dumping margin of 130.63 percent to the extent practicable within the meaning of section 776(c) of the Act using the highest transaction-specific dumping margins calculated for NVR⁷ and, thus, we assigned this dumping margin to Marcegaglia as AFA.

The Department received no comments regarding its preliminary application of the AFA dumping margin to Marcegaglia. For the final determination, the Department has not altered its analysis or its decision to apply the AFA to Marcegaglia, but for the reasons explained below, the

⁵ *See Preliminary Determination*, and accompanying Preliminary Decision Memorandum, at 5-8.

⁶ *See* Letter to the Secretary of Commerce from Marcegaglia “Carbon and Alloy Steel Cut-To-Length Plate from Italy, Antidumping Investigation, Case No. A-475-834: Letter Regarding Respondent Selection and Initial Antidumping Questionnaire” (June 15, 2016).

⁷ *Id.*, at 25.

petition margin can no longer be corroborated and, thus, we assigned to Marcegaglia a different dumping margin.

Additionally, due to its failures at verification, we determine that NVR's data cannot serve as a reliable basis for reaching a determination in this investigation and that NVR did not act to the best of its ability to comply with our requests for information. Therefore, we also find it appropriate to apply the AFA dumping margin to NVR. For further discussion, *see* the Issues and Decision Memorandum at Comments 1-4.

Finally, for the final determination, because NVR's information is no longer available for use in corroborating the petition rate, as AFA, we assigned to Marcegaglia and NVR the highest transaction-specific dumping margin calculated for OTS. For further discussion, *see* the Issues and Decision Memorandum at Comment 4.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. OTS is the only respondent for which the Department calculated a company-specific margin that is not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, for purposes of determining the "all-others" rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for OTS, as referenced in the "Final Determination" section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Dumping Margins (percent)
NLMK Verona SpA	22.19
Officine Tecnosider s.r.l.	6.08
Marcegaglia SpA	22.19
All Others	6.08

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Italy, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, the date of publication of the preliminary determination of this investigation in the *Federal Register*. For entries made by Marcegaglia, NVR, and OTS, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of CTL plate from Italy which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the *Federal Register*. Additionally, for entries made by the companies covered by the “all others” rate, in accordance with section 735(c)(4)(B) of the Act, because we find that critical circumstances exist, we will instruct CBP to suspend liquidation of all appropriate entries of CTL plate from Italy which were entered, or withdrawn from warehouse, for consumption on or

after August 16, 2016, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the *Federal Register*.

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of CTL plate from Italy no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

- (1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which:

- (1) iron predominates, by weight, over each of the other contained elements; and
- (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

- (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;
- (2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL-A-12560,
- MIL-DTL-12560H,
- MIL-DTL-12560J,
- MIL-DTL-12560K,
- MIL-DTL-32332,
- MIL-A-46100D,
- MIL-DTL-46100-E,
- MIL-46177C,
- MIL-S-16216K Grade HY80,
- MIL-S-16216K Grade HY100,
- MIL-S-24645A HSLA-80;
- MIL-S-24645A HSLA-100,
- T9074-BD-GIB-010/0300 Grade HY80,
- T9074-BD-GIB-010/0300 Grade HY100,
- T9074-BD-GIB-010/0300 Grade HSLA80,
- T9074-BD-GIB-010/0300 Grade HSLA100, and
- T9074-BD-GIB-010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

- (3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;
- (4) CTL plate meeting the requirements of ASTM A-829, Grade E 4340 that are over 305 mm in actual thickness;
- (5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23-0.28,
- Silicon 0.05-0.20,
- Manganese 1.20-1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0-2.5,
- Molybdenum 0.35-0.80,
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

- (i) 270-300 HBW,
- (ii) 290-320 HBW, or
- (iii) 320-350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23-0.28,
- Silicon 0.05-0.15,
- Manganese 1.20-1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20-1.50,
- Molybdenum 0.35-0.55,

- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at -75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01-75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at -40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25-0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0-3.5,

- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0-1.5,
- Molybdenum 0.6-0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at -40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Adverse Facts Available
- IV. Critical Circumstances
- V. Scope of the Investigation
- VI. Scope Comments
- VII. Margin Calculations
- VIII. Discussion of the Issues
 - NVR
 - 1. Date of Sale for NVR's U.S. Direct Shipments
 - 2. Product Characteristics and Control Numbers for NVR
 - 3. Misreported Quantities for NVR
 - 4. AFA
 - 5. Other NVR Adjustments
 - OTS
 - 6. Differential Pricing Methodology
 - 7. Weight Basis for OTS
 - 8. OTS's Home Market Commissions
 - 9. U.S. Short-Term Borrowing Rate
 - 10. Home Market Freight Expenses
 - 11. Disregarding Sales Where OTS Provided Only Tolling Services
 - 12. Ministerial Error in the Cost Test for OTS
 - 13. Cost Recovery Test
 - 14. Financial Expense Ratio
 - 15. Foreign Exchange Offset to Reported Direct Material Costs
 - 16. Trasteel's Stab Acquisition Cost
- IX. Recommendation

[FR Doc. 2017-06630 Filed: 4/3/2017 8:45 am; Publication Date: 4/4/2017]